

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI,
WESTERN DIVISION

MELINDA TREVINO

PLAINTIFF

VERSUS

CIVIL ACTION NO. 5:07cv5-DCB-JMR

SOUTHERN HARDWARE COMPANY, INC.
and MELVIN C. GAMBLE, individually
and as agent, servant, and employee
of Southern Hardware Company, Inc.

DEFENDANTS

ORDER OF DISMISSAL

This cause comes before the Court on the defendants' Expedited Motion to Dismiss [**docket entry no. 42**]. Having considered said Motion in light of all applicable law, and being otherwise fully advised in the premises, the Court finds and orders as follows:

On September 27, 2007, the Court entered a Text Order which granted the Honorable John L. Hunter's Motion to Withdraw [docket entry no. 16] as counsel for Melinda Trevino, plaintiff herein. At the time, Mr. Hunter was representing Melinda Trevino and her husband Robert Trevino.¹ The Text Order also directed the plaintiff to inform the Court within thirty days of her selection of new counsel or her intent to proceed pro se. The Clerk of Court sent a copy of the Text Order to the plaintiff at her last known address. Melinda Trevino did not respond to the Court's text Order of September 27, 2007.

¹ Mr. Trevino is no longer a plaintiff in this action. On May 21, 2008, the Court issued an Order [docket entry no. 40] which granted the parties' ore tenus Joint Motion to Dismiss with prejudice all of Mr. Trevino's claims.

On July 9, 2008, the defendants filed the instant Expedited Motion to Dismiss [docket entry no. 42], wherein they assert that the plaintiff has failed to prosecute her loss of consortium claim and request a dismissal of the action pursuant to Federal Rule of Civil Procedure 41(b).

On July 10, 2008, the Court issued an Order to Show Cause [docket entry no. 43] wherein it instructed the plaintiff to explain why she had not complied with the Court's Text Order of September 27, 2007, and to advise the Court whether she plans to continue to prosecute this case. The Court also warned the plaintiff that her failure to respond to the Order to Show Cause within five days would result in the dismissal of the action. As of date of this Order, the plaintiff has not responded to the Court's Order to Show Cause.

The Court finds that the plaintiff has failed to prosecute the action and has refused to comply with several of the Court's orders. Accordingly, pursuant to Federal Rule of Civil Procedure 41(b),

IT IS HEREBY ORDERED that the defendants' Expedited Motion to Dismiss [docket entry no. 42] is **GRANTED**.

IT IS FURTHER ORDERED that the case is **DISMISSED WITH PREJUDICE**.

SO ORDERED, this the 21st day of July 2008.

s/ David Bramlette

UNITED STATES DISTRICT JUDGE